

Senate File 463

S-3156

1 Amend Senate File 463 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. Section 555B.3, Code 2019, is amended to read
5 as follows:

6 **555B.3 Action for abandonment — jurisdiction.**

7 A real property owner not requesting notification by the
8 sheriff as provided in [section 555B.2](#) may bring an action
9 alleging abandonment in the court within the county where the
10 real property is located ~~provided that there is no lien on~~
11 ~~the mobile home or personal property other than a tax lien~~
12 ~~pursuant to [chapter 435](#)~~. The action shall be tried as an
13 equitable action. Unless commenced as a small claim, the
14 petition shall be presented to a district judge. Upon receipt
15 of the petition, either the court or the clerk of the district
16 court shall set a date for a hearing not later than fourteen
17 days from the date of the receipt of the petition, except when
18 there is a lien on the mobile home or personal property, other
19 than a tax lien, the court or the clerk of the district court
20 shall set a date for a hearing no sooner than twenty-five days
21 from the date of the receipt of the petition so as to allow for
22 service on the lienholder.

23 Sec. 2. Section 555B.4, Code 2019, is amended by adding the
24 following new subsection:

25 NEW SUBSECTION. 4. If a lien, other than a tax lien, exists
26 on the mobile home or personal property at the time an action
27 for abandonment is initiated, personal service pursuant to rule
28 of civil procedure 1.305 shall be made upon the lienholder
29 no less than twenty days before the hearing. The notice to
30 the lienholder shall describe the mobile home and shall state
31 the docket, case number, date, time at which the hearing is
32 scheduled, and the lienholder's right to assert a claim to
33 the mobile home at the hearing. The notice shall also state
34 that failure to assert a claim to the mobile home within the
35 judicial proceedings is deemed a waiver of all right, title,

SF463.1335 (4) 88

(amending this SF 463 to CONFORM to HF 638)

1 claim, and interest in the mobile home and is deemed consent to
2 the sale or disposal of the mobile home. If personal service
3 upon the lienholder cannot be completed in time to give the
4 lienholder the minimum notice required by this section, the
5 court may set a new hearing date.

6 Sec. 3. Section 555B.8, subsections 2 and 3, Code 2019, are
7 amended to read as follows:

8 2. If Except as otherwise ordered by the court, if the
9 mobile home owner or other claimant asserts a claim to the
10 property, the judgment shall be satisfied before the mobile
11 home owner or other claimant may take possession of the mobile
12 home or personal property.

13 3. If no claim is asserted to the mobile home or personal
14 property or if the judgment is not satisfied at the time of
15 entry, an order shall be entered allowing the real property
16 owner to sell or otherwise dispose of the mobile home and
17 personal property pursuant to [section 555B.9](#). If Except as
18 otherwise ordered by the court, if a claimant satisfies the
19 judgment at the time of entry, the court shall enter an order
20 permitting and directing the claimant to remove the mobile home
21 or personal property from its location within a reasonable time
22 to be fixed by the court. The court shall also determine the
23 amount of further rent or storage charges to be paid by the
24 claimant to the real property owner at the time of removal.

25 Sec. 4. Section 555B.9, subsections 1, 2, 3, and 4, Code
26 2019, are amended to read as follows:

27 1. Pursuant to an order for disposal under section 555B.8,
28 subsection 3, the real property owner shall dispose of the
29 mobile home and personal property by public or private sale in
30 a commercially reasonable manner. If the personal property,
31 lienholder, owner or other claimant has asserted a claim to
32 the mobile home or personal property within the judicial
33 proceedings, that person shall be notified of the sale by
34 restricted certified mail not less than five days before the
35 sale. The notice is deemed given upon the mailing. The real

1 property owner may buy at any public sale, and if the mobile
2 home or personal property is of a type customarily sold in
3 a recognized market or is the subject of widely distributed
4 standard price quotations, the real property owner may buy at a
5 private sale.

6 2. A sale pursuant to [subsection 1](#) transfers to the
7 purchaser for value, all of the mobile home owner's rights
8 in the mobile home and personal property, and discharges the
9 real property owner's interest in the mobile home and personal
10 property, and any tax lien, and any other lien. The purchaser
11 takes free of all rights and interests even though the real
12 property owner fails to comply with the requirements of this
13 chapter or of any judicial proceedings, if the purchaser acts
14 in good faith.

15 3. The proceeds of the sale of mobile home and personal
16 property shall be distributed as follows:

17 a. First, to satisfy the real property owner's judgment
18 obtained under [section 555B.8](#).

19 b. Second, to satisfy any tax lien for which a claim was
20 asserted pursuant to [section 555B.4, subsection 3](#).

21 c. Third, to satisfy any other lien for which a claim was
22 asserted pursuant to section 555B.4, subsection 4.

23 ~~e.~~ d. Any surplus remaining after the proceeds are
24 distributed shall be held by the real property owner for six
25 months. If the mobile home owner fails to claim the surplus
26 in that time, the surplus may be retained by the real property
27 owner. If a deficiency remains after distribution of the
28 proceeds, the mobile home owner is liable for the amount of the
29 deficiency.

30 4. Notwithstanding [subsections 1 through 3](#), the real
31 property owner may propose to retain the mobile home and
32 personal property in satisfaction of the judgment obtained
33 pursuant to [section 555B.8](#). Written notice of the proposal
34 shall be sent to the mobile home owner, lienholder, or other
35 claimant, if that person has asserted a claim to the mobile

1 home or personal property in the judicial proceedings. If
2 the real property owner receives objection in writing from
3 the mobile home owner, lienholder, or other claimant within
4 twenty-one days after the notice was sent, the real property
5 owner shall dispose of the mobile home and personal property
6 pursuant to subsection 1. If no written objection is received
7 by the real property owner within twenty-one days after the
8 notice was sent, the mobile home and personal property may be
9 retained. Retention of the mobile home and personal property
10 discharges the judgment of the real property owner, and any tax
11 lien, and any other lien.

12 Sec. 5. Section 562A.9, subsection 4, Code 2019, is amended
13 to read as follows:

14 4. For rental agreements in which the rent does not exceed
15 seven hundred dollars per month, a rental agreement shall not
16 provide for a late fee that exceeds twelve dollars per day or a
17 total amount of sixty dollars per month. For rental agreements
18 in which the rent is greater than seven hundred dollars per
19 month but less than one thousand four hundred dollars per
20 month, a rental agreement shall not provide for a late fee that
21 exceeds twenty dollars per day or a total amount of one hundred
22 dollars per month. For rental agreements in which the rent is
23 at least one thousand four hundred dollars per month, a rental
24 agreement shall not provide for a late fee that exceeds two
25 percent of the rent per day or a total amount of ten percent of
26 the rent per month.

27 Sec. 6. Section 562B.10, subsections 4 and 7, Code 2019, are
28 amended to read as follows:

29 4. For rental agreements in which the rent does not exceed
30 seven hundred dollars per month, a rental agreement shall not
31 provide for a late fee that exceeds twelve dollars per day or a
32 total amount of sixty dollars per month. For rental agreements
33 in which the rent is greater than seven hundred dollars per
34 month but less than one thousand four hundred dollars per
35 month, a rental agreement shall not provide for a late fee that

SF463.1335 (4) 88

(amending this SF 463 to CONFORM to HF 638)

js/rn

1 exceeds twenty dollars per day or a total amount of one hundred
2 dollars per month. For rental agreements in which the rent is
3 at least one thousand four hundred dollars per month, a rental
4 agreement shall not provide for a late fee that exceeds two
5 percent of the rent per day or a total amount of ten percent of
6 the rent per month.

7 7. a. If a tenant who was sole owner of a mobile home dies
8 during the term of a rental agreement then that person's heirs
9 or legal representative or the landlord shall have the right
10 to cancel the tenant's lease by giving sixty days' written
11 notice to the person's heirs or legal representative or to
12 the landlord, whichever is appropriate, and the heirs or the
13 legal representative shall have the same rights, privileges and
14 liabilities of the original tenant.

15 b. (1) If a tenant who was sole owner of a mobile home dies
16 during the term of a rental agreement resulting in the mobile
17 home being abandoned as provided in section 562B.27, subsection
18 1, and the landlord cannot, despite due diligence, locate such
19 tenant's heirs or legal representatives, then the landlord may
20 bring an action for abandonment as provided in section 555B.3,
21 naming as defendants the estate of the tenant and any and all
22 unknown heirs of the tenant and, upon the landlord's filing
23 of an affidavit that personal service cannot be had on any
24 heir, legal representative, or estate of the tenant, the court
25 shall permit original notice of such action to be served by
26 publication pursuant to subparagraph (2) of this paragraph.

27 (2) Publication of the original notice shall be made
28 once each week for three consecutive weeks in a newspaper of
29 general circulation published in the county where the petition
30 is filed, as provided in rules of civil procedure 1.313 and
31 1.314. Service is complete after the third consecutive weekly
32 publication.

33 (3) In the event any tax lien or other lien exists on
34 the mobile home, the landlord may proceed with an action for
35 abandonment as provided in section 555B.3, except that:

1 (a) Notice shall be provided to the county treasurer as
2 provided in section 555B.4, subsection 3, if a tax lien exists.

3 (b) Personal service pursuant to rule of civil procedure
4 1.305 shall be made upon any lienholder no less than twenty
5 days before the hearing.

6 (4) Any notice to a lienholder shall state that failure
7 to assert a claim to the mobile home is deemed a waiver of
8 all right, title, claim, and interest in the mobile home and
9 is deemed consent to the sale or disposal of the mobile home.
10 If personal service upon the lienholder cannot be completed
11 in time to give the lienholder the minimum notice required by
12 subparagraph (3), the court may set a new hearing date.

13 Sec. 7. Section 648.5, subsection 1, Code 2019, is amended
14 to read as follows:

15 1. An action for forcible entry and detainer shall be
16 brought in a county where all or part of the premises is
17 located. Such an action shall be tried as an equitable action.
18 Upon receipt of the petition, the court shall set a date,
19 time, and place for hearing. The court shall set the date
20 of hearing no later than eight days from the filing date,
21 except that the court shall set a later hearing date no later
22 than fifteen days from the date of filing if the plaintiff
23 requests or consents to the later date of hearing. The
24 requirement regarding the setting of the initial hearing is not
25 a jurisdictional requirement and does not affect the court's
26 subject matter jurisdiction to hear the action for forcible
27 entry and detainer.>

28 2. Title page, by striking lines 1 and 2 and inserting <An
29 Act relating to landlord remedies and procedures relating to
30 failure to timely pay rent, abandonment, and forcible entry and
31 detainer.>

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SF463.1335 (4) 88

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6/6